



2003 Adoption State Statute Series Statute-at-a-Glance Consent to Adoption

What You Need to Know

Consent plays a pivotal role in all adoptions; all adoptions are based upon the consent of persons or agencies legally empowered with the care or custody of the child. Consent refers to the agreement by a parent, or a person or agency acting in place of a parent, to relinquish the child for adoption and to release all rights and duties with respect to that child. In most States, the consent must be in writing and either witnessed and notarized or executed before a judge or other designated official. State legislatures have developed a range of provisions designed to ensure protection for children to prevent unnecessary and traumatic separations from their adult caretakers; for birth parents to prevent uninformed, hurried, or coerced decisions; and for adoptive parents to prevent anxiety about the legality of the adoption process.

Who Must Consent

In all States, the birth mother and the birth father, if he has properly established paternity,¹ hold the primary right of consent to adoption of their child. Either one or both parents may have these rights terminated for a variety of possible reasons, including abandonment, failure to support the child, mental incompetence, or a finding of parental unfitness due to abuse or neglect. When neither birth parent is available to give consent, the responsibility can fall to other legal entities, such as:

- An agency that has custody of the child
- Any person who has been given custody
- A guardian or guardian *ad litem*
- The court having jurisdiction over the child
- A close relative of the child
- A best friend of the child appointed by the court

Consent of Minors



The Clearinghouses are services of the Children's Bureau, Administration for Children and Families, U.S. Department of Health and

Approximately² 47 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands require that older children give consent to their adoption. Twenty-three States and the Virgin Islands set the age of consent at 14 years; 18 States, American Samoa, and Guam at 12 years; and seven States, the Northern Mariana Islands, and Puerto Rico require consent of children age 10 and above. In some States, the requirement can be dispensed with if the child lacks the mental capacity to consent, or the court finds it in the best interest of the child to dispense with consent.

¹ In those States where there is a putative father registry, a birth father who fails to register in the prescribed manner and within the proper time period, may lose the right to consent. Other jurisdictions require unwed fathers to file a notice of their paternity claim within a certain period of time.

² The word *approximately* is used to stress the fact that the statutes are constantly being revised and updated.

When Consent Can Be Executed

Approximately 46 States and the District of Columbia specify in statute when a birth parent may execute a consent to adoption. Birth fathers can generally execute consent at any time, while a birth mother can usually only execute consent after the birth of the child. Fifteen States and the Northern Mariana Islands allow consent at any time after the birth, while 29 States require a waiting period before a consent can be executed. The shortest waiting periods are 12 and 24 hours, and the longest are 10 and 15 days. The most common waiting period, required in 15 States, is 72 hours, or 3 days. Only two States (Alabama and Hawaii) allow the birth mother to consent before the birth of her child; however, the decision to consent must be reaffirmed after the birth.

The manner in which consent can be executed varies considerably from State to State. In some States, consent may be executed by a written statement witnessed and/or notarized by a notary public. Other States may require an appearance before a judge, or the filing of a petition of relinquishment. Some States require that the parent be provided with counseling and have his/her rights and the legal effect of relinquishment explained to him/her prior to consent. In those cases where custody of the child has previously been placed with an agency, the head of the agency may sign an affidavit of consent.

In most States, a birth parent who is a minor is treated no differently than other birth parents. However, in some States, the minor parent must be provided with separate counsel prior to execution, or a guardian *ad litem* must be appointed to either review or execute the consent. In other States and Guam, the consent of the minor's parents must be obtained.

Revocation of Consent

Adoption is meant to create a permanent and stable home for a child; therefore, a validly executed relinquishment and consent to adopt is intended to be final and irrevocable. As a result, approximately five States, the District of Columbia, American Samoa and the Virgin Islands make no provisions for revocation of consent, and approximately 23 States and Puerto Rico only allow revocation when there are specific circumstances—generally when there is strong evidence of fraud, duress, undue influence, coercion, or misrepresentation.

In other States, provisions are made for withdrawal or revocation of consent under specific circumstances or within specified time limits. Several States have specific time periods, generally ranging from three to 21 days, when revocation is allowed for any reason. In other States, revocation requires the mutual consent of the adopting family or a court finding that revocation is in the best interest of the child. In some States, the issue of consent may be reconsidered if an adoptive placement is not made with a specified family or within a specific period of time.

Consent becomes final and irrevocable once the court issues a final decree of adoption.

The Statutes-at-a-Glance listings summarize specific sections of each State's code. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures. Readers interested in the interpretation of specific statutory provisions within an individual jurisdiction should consult with professionals within the State familiar with the statutes' implementation.

To obtain additional copies of this product, or for more information, contact:

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We welcome your comments and suggestions about this products.

Alabama**Who Must Consent to an Adoption**

Statute: § 26-10A-7; § 26-10A-8

- The mother
- The presumed father, regardless of paternity
- The agency to whom the child has been relinquished
- The putative father if he has responded to notice
- A minor parent, to whom a guardian *ad litem* must be appointed

Age When Consent of Adoptee is Considered or Required

Statute: § 26-10A-7

A child 14 years or older must consent to the adoption, except where the court finds that the child does not have the mental capacity to consent.

When Parental Consent is Not Needed

Statute: § 26-10A-9; § 26-10A-10

- Parent:
 - Has abandoned the child
 - Fails to respond to notice
 - Has had rights terminated
 - Is found to be incompetent
 - Has relinquished child to placing agency
 - Is deceased
- Alleged father signs affidavit denying paternity
- Natural father unknown

When Consent Can Be Executed

Statute: § 26-10A-13

Any time prior to or after the birth of the child.

How Consent Must Be Executed

Statute: § 26-10A-11; § 26-10A-12

- Consent of mother before birth must be signed and confirmed before a probate judge.
- Other consents may be executed in presence of judge, court clerk, or any public officer, or a person appointed by an agency authorized to take consents, or notary public.

Revocation of Consent

Statute: § 26-10A-13; § 26-10A-14

- Can be withdrawn for any reason within 5 days of birth of child or signing of consent; within 14 days if court finds it consistent with child's best interest.
 - Can be withdrawn any time prior to final decree for fraud, duress, undue influence, or mistake.
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Alaska**Who Must Consent to an Adoption**

Statute: § 25.23.040

- The mother
- The father if married to the mother
- The father by adoption, or otherwise legitimized
- Any person lawfully entitled to custody or consent
- The court
- Spouse of a minor

Age When Consent of Adoptee is Considered or Required

Statute: § 25.23.040

- A child 10 years or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.
- The adult to be adopted.

When Parental Consent is Not Needed

Statute: § 25.23.050

- When a parent has:
 - Abandoned the child
 - Failed to communicate with or support the child
 - Had rights terminated
 - Been declared incompetent
- The child is 19 years or older

When Consent Can Be Executed

Statute: § 25.23.060

May be executed any time after the child's birth.

How Consent Must Be Executed

Statute: § 25.23.060

Consent is executed:

- Before the court
- Before a person authorized to take acknowledgments

Revocation of Consent

Statute: § 25.23.070

- May be withdrawn before entry of decree for any reason within 10 days of executing consent
 - After 10 day period, court must find withdrawal to be in child's best interest
 - Consent to adoption may not be withdrawn after the entry of a decree of adoption
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American Samoa**Who Must Consent to an Adoption**

Statute: § 45.0412(a); § 45.0414(a)

- The parent(s)
- A guardian appointed by the court
- The department of health or child placing agency

Age When Consent of Adoptee is Considered or Required

Statute: § 45.0412(b)

Written consent must be obtained from any child age 12 or older.

When Parental Consent is Not Needed

Statute: § 45.0401

A court has terminated the parents' rights upon determination that the child has been neglected.

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: § 45.0412(a)

All required consents must be written and verified and attached to the adoption petition.

Revocation of Consent

Statute: § 45.0431

- Final decree may not be attacked for any procedural defect after 2 years
 - There is no specific provision for revocation of consent
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Arizona**Who Must Consent to an Adoption**

Statute: § 8-106(A), (B)

- The birth or adoptive mother
- The father if married to the mother or otherwise established paternity
- Any guardian of the child or agency which has been given the child to place for adoption
- Minority of parent does not affect competency to consent

Age When Consent of Adoptee is Considered or Required

Statute: § 8-106(A)

A child 12 years or older must consent to the adoption in open court.

When Parental Consent is Not Needed

Statute: § 8-106(B); § 8-106.01(E)

- A parent has had rights terminated
- A parent has previously consented that an agency place the child
- An adult parent for whom a guardian is currently appointed
- A putative father who does not file claim of paternity waives right of notice

When Consent Can Be Executed

Statute: § 8-107(B)

Consent must be executed no sooner than 72 hours after the birth of the child.

How Consent Must Be Executed

Statute: § 8-107(A)

In writing, witnessed by 2 or more credible witnesses, and acknowledged before a notary public.

Revocation of Consent

Statute: § 8-106(D)

Consent is irrevocable unless obtained by fraud, duress, or undue influence.

Arkansas**Who Must Consent to an Adoption**

Statute: § 9-9-206

- The mother
- The father if married to the mother or otherwise has established paternity
- Any person or agency lawfully entitled to custody
- The court
- The spouse of the minor to be adopted

Age When Consent of Adoptee is Considered or Required

Statute: § 9-9-206

A child 10 years or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.

When Parental Consent is Not Needed

Statute: § 9-9-207

- A parent has:
 - Deserted a child
 - Failed to communicate or provide care or support for the child
 - Relinquished rights or had them terminated
 - Been declared incompetent
- The person is an adult

When Consent Can Be Executed

Statute: § 9-9-208

Can be executed any time after the birth of the child.

How Consent Must Be Executed

Statute: § 9-9-208

- Must be executed in the presence of a judge or authorized person
- If a child is old enough to grant consent, he must do so in the presence of a judge
- If parent is a minor, the guardian ad litem must sign the consent

Revocation of Consent

Statute: § 9-9-209

- Consent to adoption cannot be withdrawn after the entry of a decree of adoption
 - A consent to adopt may be withdrawn within 10 days after it is signed or the child is born whichever is later
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California**Who Must Consent to an Adoption**

Statute: Fam. Code § 8603; § 8604

- The birth parents, if living
- The parent having custody if the other parent:
 - Fails to communicate with and support the child
 - Fails to respond to notice of adoption
- A married person may not adopt a child without the consent of the spouse

Age When Consent of Adoptee is Considered or Required

Statute: Fam. Code § 8602

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Fam. Code § 8604; § 8606

- The parent has:
 - Relinquished rights or had them terminated
 - Deserted the child
- Parent willfully fails to contact or support the child for one year

When Consent Can Be Executed

Statute: Fam. Code § 8801.3; § 8700

- In a direct placement, consent may only take place after the discharge of the birth mother from the hospital. If the mother is required to be hospitalized longer than the child, consent may be given with verification of competency from her physician.
- Relinquishment to an agency can take place any time after the birth of the child.

How Consent Must Be Executed

Statute: Fam. Code § 8801.3; § 8814; § 8700

- In a direct placement, consent must take place in the presence of an Adoption Service Provider or other delegated agent, who has advised the parents of their rights.
- In an agency adoption, a form is signed before 2 witnesses and acknowledged before an official of the agency.

Revocation of Consent

Statute: Fam. Code § 8814.5; § 8700

- In a direct placement, after consent has been given, the parents have 30 days to submit a signed revocation and request return of the child or sign a waiver of the right to revoke consent.
 - In agency adoption, consent is final and may only be rescinded by mutual consent, unless the birth parent has specified an adoptive parent and that placement is not finalized; then the parent has 30 days to rescind.
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Colorado**Who Must Consent to an Adoption**

Statute: § 19-5-203

Written, verified consent is required from:

- Parents
- A guardian of a child whose parents are deceased
- A parent in a stepparent adoption

Age When Consent of Adoptee is Considered or Required

Statute: § 19-5-103; § 19-5-203

Children must undergo counseling. Written consent must be obtained from any child age 12 years or older.

When Parental Consent is Not Needed

Statute: § 19-5-203; § 19-3-604

- Parent's rights have been terminated due to parent's unfitness as outlined in 19-3-604
- Parent has failed to provide support or has abandoned the child for 1 year

When Consent Can Be Executed

Statute: § 19-5-104; § 19-5-203

Consent may be executed any time after the birth of the child.

How Consent Must Be Executed

Statute: § 19-5-103

Parent must obtain counseling from the Department of Social Services and petition the court.

Revocation of Consent

Statute: § 19-5-104(7)(a)

Consent may be revoked only if, within 90 days after entry of order, it is established by clear and convincing evidence that it was obtained by fraud or duress.

Connecticut**Who Must Consent to an Adoption**

Statute: § 45a-724

- Any statutory parent
 - A surviving parent when one parent has died
 - An unwed mother provided that the putative father has received notice or had rights terminated
 - The child's guardian
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Age When Consent of Adoptee is Considered or Required

Statute: § 45a-724

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 45a-717(f)-(g)

Parent has:

- Had rights terminated
- Abandoned the child
- Caused the child non-accidental injury
- Failed to maintain a relationship with the child for at least 1 year
- Killed another child of the parent or was convicted of sexual assault resulting in the conception of a child

When Consent Can Be Executed

Statute: § 45a-715(d)

Mother cannot consent until at least 48 hours after birth.

How Consent Must Be Executed

Statute: § 45a-715(d), (f)

- A petition for voluntary relinquishment must be approved by the court
- Relinquishment by a minor parent must be approved by a guardian *ad litem*

Revocation of Consent

Statute: § 45a-719

- A petition to set aside termination may be filed prior to final decree
 - The court will consider the child's best interests
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Delaware**Who Must Consent to an Adoption**

Statute: Tit. 13 § 908; § 1106

- Consent shall be granted by the Department or agency to whom rights are vested.
- In cases of adoption by a stepparent or blood relative, consent shall be granted by the biological mother and father.

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 13 § 907

A child 14 years or older must provide written consent unless the court finds it in child's best interest to waive consent.

When Parental Consent is Not Needed

Statute: Tit. 13 § 1103(a)

- The child has been abandoned
- The parent is legally incompetent
- The parent is convicted of a felony where a child has been harmed
- There is a history of neglect or chronic abuse

When Consent Can Be Executed

Statute: Tit. 13 § 1106

- Consent by mother can be given any time after child's birth
- Consent by natural father may be executed prior to or after the child's birth

How Consent Must Be Executed

Statute: Tit. 13 § 907; § 1106(c)

- Consent shall be written, notarized, and annexed to petition if parental rights have not been previously terminated.
- Consent executed by a parent or guardian must be signed or confirmed in the presence of a judge or other designated representative.

Revocation of Consent

Statute: Tit. 13 § 909

Within 60 days of filing petition of consent, a person wishing to revoke may petition the court.

District of Columbia**Who Must Consent to an Adoption**

Statute: § 16-304

- Both parents, if living
- The court-appointed guardian
- A licensed child placing agency if parental rights have been terminated

Age When Consent of Adoptee is Considered or Required

Statute: § 16-304

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 16-304

When a parent:

- Cannot be located
- Has abandoned the child
- Has failed to support the child for at least 6 months
- Has relinquished all rights to an agency

When Consent Can Be Executed

Statute: § 4-1406(b)

- No relinquishment of rights can be made within the first 72 hours after a child's birth
- The parent must first undergo counseling

How Consent Must Be Executed

Statute: § 16-304

Consent must be executed before an officer authorized to take acknowledgments, or a representative of a child-placing agency or the Mayor's office.

Revocation of Consent

Statute: § 4-1406(c)

Any voluntary relinquishment may be automatically revoked by a verified writing submitted to the agency within 10 calendar days.

Florida**Who Must Consent to an Adoption**

Statute: § 63.062

- The mother
- The father if child was conceived or born while married to the mother or has otherwise established paternity
- Any person lawfully entitled to custody
- If parental rights have been terminated, The adoption entity with which the minor is placed

Age When Consent of Adoptee is Considered or Required

Statute: § 63.062(c)

A child 12 years or older must consent, unless the court determines it is in child's best interest to dispense with consent.

When Parental Consent is Not Needed

Statute: § 63.089

- The parent abandons the child, which may be established from marginal efforts to assume parental responsibility.
- Parental rights have been terminated.
- The parent is mentally incompetent.
- A guardian or custodian is found to be withholding consent unreasonably.

When Consent Can Be Executed

Statute: § 63.062; § 63.088

- Written consent must be executed by the birth mother no sooner than 48 hours after the minor's birth. The father may execute consent at any time after the birth of the child.
- Consent will be implied if the location or identity of a person whose consent is required, but is not known, and that person has been served with constructive notice (i.e., posted in the newspaper of the county of last known residence, etc.).

How Consent Must Be Executed

Statute: § 63.082

- In an agency adoption, consent is by affidavit from an authorized representative.
- In direct placements, parents execute consent in the presence of 2 witnesses, acknowledged by a notary public.

Revocation of Consent

Statute: § 63.082

- Consent to the adoption of a minor who is to be placed with identified prospective parents under 63.052 may be withdrawn only when the court finds that the consent was obtained by fraud or duress.
- Consent to the adoption of a minor older than 6 months of age may be revoked within 3 days or anytime prior to the placement, whichever is later, unless the consent was obtained by fraud or duress.

Georgia**Who Must Consent to an Adoption**

Statute: § 19-8-4(a)

Any living parent or guardian must voluntarily and in writing surrender all rights to the child to the department or child placing agency.

Age When Consent of Adoptee is Considered or Required

Statute: § 19-8-4(b)

A child 14 years or older must consent in the presence of the court.

When Parental Consent is Not Needed

Statute: § 19-8-10

- The child has been abandoned and parent cannot be found
- Parent is insane or otherwise incapacitated
- Parent has failed to exercise proper parental care

When Consent Can Be Executed

Statute: § 19-8-5

Consent may be executed any time after the birth of the child.

How Consent Must Be Executed

Statute: § 19-8-4; § 19-8-5

- In an agency adoption, consent may be executed before a notary and representative of the agency or department.
- In a direct placement, it may be executed before a notary.

Revocation of Consent

Statute: § 19-8-9

- Parent may withdraw consent within 10 days
 - The surrender document is not valid unless it states the right of withdrawal
 - Although not expressly stated, consent may be invalid if executed under fraud, duress or incapacity
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Guam**Who Must Consent to an Adoption**

Statute: Tit. 19 § 4206

- Each parent of the child
- If there is no parent, the guardian shall consent
- A minor parent's consent must be concurred by his parent or guardian

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 19 § 4206(c)

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Tit. 19 § 4206(b); § 4207

- When the parents' rights have been previously terminated
- When the court finds that a guardian is withholding consent arbitrarily

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: Tit. 19 § 4206(b); § 4207

Consents must be: in writing, attached to the adoption petition, acknowledged before a notary public and witnessed by a representative of the court.

Revocation of Consent

Statute: Tit. 19 § 4208

- Withdrawal of consent not permitted, except by petition to the court and a finding of the child's best interest
- Becomes irrevocable upon entry of Order of Adoption

Hawaii**Who Must Consent to an Adoption**

Statute: § 578-2(a)

- The mother
- A legal father
- An adjudicated or presumed father
- A natural father who demonstrates a reasonable degree of interest
- Any person or agency having legal custody; or the court having jurisdiction over the child's custody
- The court if the legal guardian is not empowered to consent

Age When Consent of Adoptee is Considered or Required

Statute: § 578-2(a)(8)

A child 10 years or older must consent, unless the court dispenses with the need.

When Parental Consent is Not Needed

Statute: § 578-2(c)

A parent has:

- Deserted the child for 90 days
- Voluntarily surrendered care and custody to another for 2 years
- Has failed to support or contact the child for 1 year
- Had parental rights terminated
- Been declared mentally ill or retarded

When Consent Can Be Executed

Statute: § 571-61

May be given following the 6th month of pregnancy, provided that no judgment may be entered until after the birth of the child and petitioners have reaffirmed their desire to adopt.

How Consent Must Be Executed

Statute: § 578-8

No adoption decree shall be granted without a hearing at which anyone who needs to consent must appear, unless expressly excused by the court.

Revocation of Consent

Statute: § 578-2(f)

Consent cannot be withdrawn after the child is placed with prospective adopters unless the court finds it would be in the child's best interest.

Idaho**Who Must Consent to an Adoption**

Statute: § 16-1504

- If the child was conceived in a marriage, by both parents or surviving parent
- If the child was born outside of marriage then by the mother and the adjudicated biological father
- Any legally appointed custodian or guardian of the adoptee
- The agency that has been authorized to place the child

Age When Consent of Adoptee is Considered or Required

Statute: § 16-1504

A child 12 years or older must consent to the adoption, unless he/she lacks the mental capacity to consent.

When Parental Consent is Not Needed

Statute: § 16-1504; § 16-2005

A parent:

- Has had parental rights terminated
- Has abused, neglected, or abandoned the child
- Has caused the child to be conceived as a result of rape or incest
- Has killed child's other parent
- Has been incarcerated and has no possibility of parole
- Is not the natural parent
- Is unable to discharge parental responsibilities

When Consent Can Be Executed

- Not addressed in statutes reviewed.
- By implication, consent may be executed any time after the birth of the child.

How Consent Must Be Executed

Statute: § 16-2005; § 16-1506

Consent must be executed before any authorized officer, district judge or magistrate on a form found in the Idaho Code.

Revocation of Consent

Statute: § 16-1515

If the parent revokes consent and petitions for custody of the child, the parent must reimburse the adoptive parents for expenses paid.

Illinois**Who Must Consent to an Adoption**

Statute: 750 ILCS § 50/8(b)

- The mother
- The father if married to the mother or if he has established paternity
- A legal guardian
- Any person or agency having legal custody

Age When Consent of Adoptee is Considered or Required

Statute: 750 ILCS § 50/12

- A child 14 years or older must consent
- The court may waive consent if child is in need of mental treatment or is mentally retarded

When Parental Consent is Not Needed

Statute: 750 ILCS § 50/8(a)

The parent:

- Is found to be an unfit person
- Is found not to be the biological or adoptive father of the child
- Has waived his parental rights
- Caused the child to be conceived as a result of sexual abuse

When Consent Can Be Executed

Statute: 750 ILCS § 50/9

- The mother's consent shall not be taken less than 72 hours after the child's birth.
- A father may consent before or after the birth.
- Consent may be given to a standby adoption by a terminally ill parent to become effective when the parent dies or requests finalization.

How Consent Must Be Executed

Statute: 750 ILCS § 50/10

- Consent to an agency may be take by an agency representative
- In a direct placement, consent is acknowledged in court unless the court waives the appearance
- Forms to be used are contained in the statute

Revocation of Consent

Statute: 750 ILCS § 50/11; 750 ILCS § 50/9

- Consents are irrevocable unless obtained by fraud or duress
- No action to void consent may commence 12 months after consent was given
- The father may revoke consent within 72 hours after the birth

Indiana**Who Must Consent to an Adoption**

Statute: § 31-19-9-1

- Each living parent of a child born in wedlock
- The mother of a child born out of wedlock and the father whose paternity is established
- Any person or agency having custody
- The court having jurisdiction
- A minor parent with the concurrence of the parent or guardian
- The spouse of a married parent

Age When Consent of Adoptee is Considered or Required

Statute: § 31-19-9-1

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 31-19-9-8 to § 31-19-9-10

Parent has:

- Abandoned or failed to contact or support the child for 1 year.
- Not established paternity or whose child was conceived as a result of rape or incest.
- Had parental rights terminated.
- Been declared incompetent or mentally defective.
- Is unfit and had rights terminated in child's best interest.
- Been convicted of murder, causing the suicide, or manslaughter and the victim was the child's other parent.
- Been convicted of murder, causing the suicide, manslaughter, rape, incest, neglect or battery and the victim was the child's sibling.

When Consent Can Be Executed

Statute: § 31-19-9-2

Consent may be executed any time after the child's birth.

How Consent Must Be Executed

Statute: § 31-19-9-2

Consent may be executed in the presence of the court, a notary public or county authorized agent, or an authorized agent of the Division or child placing agency.

Revocation of Consent

Statute: § 31-19-10-3; § 31-19-10-4

- Consent may not be withdrawn after the entry of the adoption decree and pursuant to 31-19-10-3.
- Consent to adoption may be withdrawn no later than 30 days after consent is given, if the court finds that the person seeking the withdrawal is acting in the best interest of the child.

Iowa**Who Must Consent to an Adoption**

Statute: § 600.7

- Any guardian
- The spouse of a petitioner who is a stepparent
- The spouse of a petitioner who is separately petitioning to adopt an adult person

Age When Consent of Adoptee is Considered or Required

Statute: § 600.7

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 600.7; § 600A.8

A person refuses to consent or cannot be located to consent.

- The parent has signed a release of custody or petition to terminate rights
- Parent has abandoned or failed to support the child
- Parent is a chronic substance abuser
- Parent has committed more than one act of domestic abuse
- Parent has abducted, removed or improperly retained the child

When Consent Can Be Executed

Statute: § 600A.4(2)(g)

Parental release of custody may not be executed until at least 72 hours after child's birth.

How Consent Must Be Executed

Statute: § 600.7; § 600A.4

- Consent by a minor must be executed in court. Consent by any other person may be executed in court or before a notary public.
- Consent shall contain written acknowledgment that 3 hours of counseling were offered to parents after the birth.
- Release shall be in writing, have 2 witnesses, shall name the person or agency accepting the release, state the purpose, and be followed by a petition for termination of parental rights within a reasonable period of time.

Revocation of Consent

Statute: § 600.7; § 600A.4

- A request to revoke may be made prior to termination of parental rights.
- If the request is made within 96 hours of executing release, the court shall allow it.
- If made after 96 hours, the court must find by clear and convincing evidence good cause exists for revocation, such as fraud, coercion, or misrepresentation of fact.
- Consent may not be withdrawn after filing of final adoption decree.

Kansas**Who Must Consent to an Adoption**

Statute: § 59-2129

- In an independent adoption:
 - By the living parents, or one of the parents if the other's is found unnecessary
 - A legal guardian
 - The court having jurisdiction
- In agency adoptions:
 - An authorized representative of the agency may consent

Age When Consent of Adoptee is Considered or Required

Statute: § 59-2129

A child 14 years or older, if of sound intellect, must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 59-2136(h)

- The father:
 - Has neglected or abandoned the child
 - Has failed to contact or support the child
 - Is unfit or incapable of consent
 - Failed to support mother during pregnancy
 - Abandoned the mother
 - Raped the mother
 - Failed to assume parental duties for 2 years
- As far as is applicable, the provisions also apply to the mother

When Consent Can Be Executed

Statute: § 59-2114(b); § 59-2116

- Mother may not give consent until 12 hours after child's birth and must be executed not more than 6 months before an adoption petition is filed.
- Presumably, a father can consent at any time.

How Consent Must Be Executed

Statute: § 59-2114; § 59-2115

- Consent shall be in writing and acknowledged before a judge or authorized officer.
- A minor parent may consent, but must be provided with counsel prior to execution, and counsel must be present when consent is signed.

Revocation of Consent

Statute: § 59-2114

A consent is final when executed unless consenting party, prior to final decree of adoption, proves by clear and convincing evidence that consent was not freely and clearly given.

Kentucky**Who Must Consent to an Adoption**

Statute: § 199.500

- The mother
- The father if he is married to the mother or has otherwise established paternity
- A guardian *ad litem* must be appointed for a minor parent

Age When Consent of Adoptee is Considered or Required

Statute: § 199.500

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 199.500; § 199.502

A parent:

- Has abandoned or failed to support the child
- Has inflicted serious injury or allowed the child to be sexually abused
- Has had parental rights to another child terminated
- Has been adjudicated as mentally disabled

When Consent Can Be Executed

Statute: § 199.500

Consent is invalid if given prior to 72 hours after the child's birth.

How Consent Must Be Executed

Statute: § 625.040

A petition for voluntary termination of parental rights shall be filed in the circuit court of the county where petitioner resides.

Revocation of Consent

Statute: § 199.500

Consent shall become final 20 days after placement approval or 20 days after execution if placement approved prior to signing of the consent.

Louisiana**Who Must Consent to an Adoption**

Statute: Ch. Code Art. § 1193

- The mother
- The father or alleged father if he has established parental rights
- The biological father whose paternity has been established
- The custodial agency who has placed the child for adoption

Age When Consent of Adoptee is Considered or Required

Not addressed in statutes reviewed.

When Parental Consent is Not Needed

Statute: Ch. Code Art. § 1245

The parent with custody is married to the petitioner and the other parent has failed to support, visit or communicate with the child without just cause for at least 6 months.

When Consent Can Be Executed

Statute: Ch. Code Art. § 1122(b)(1); § 1130

- Act of surrender by mother shall not be executed prior to 5th day after child's birth
- A father may execute act of surrender prior to or any time after child's birth

How Consent Must Be Executed

Statute: Ch. Code Art. § 1122; § 1121

- Consent must be executed before a notary and 2 witnesses.
- Prior to this, parent must undergo at least two counseling sessions, consult with an attorney, and be informed about Voluntary Registration Law.
- In a private adoption, the parent must be represented by her own attorney at the time of execution of consent.

Revocation of Consent

Statute: Ch. Code Art. § 1123; § 1130

- Consent is irrevocable after the 5th day following child's birth.
- The father's consent is irrevocable upon execution; except if given prior to 5 days after birth, is not irrevocable until the 5th day after birth.

Maine**Who Must Consent to an Adoption**

Statute: Tit. 18-A, § 9-302

- Each living parent, unless consent has been waived
- The person or agency having legal custody
- A guardian appointed by the court

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 18-A, § 9-302

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Tit. 18-A, § 9-302; § 9-201

- A parent has abandoned the child
- Parent fails to assume parental responsibility
- Parent's rights have been terminated
- The child is 18 years of age or older
- A putative father who failed to respond to notice or waived right of notice

When Consent Can Be Executed

Statute: Tit. 18-A, § 9-202; § 9-302

- Consent can be executed any time after the child's birth
- A petition for adoption must be pending before consent is executed

How Consent Must Be Executed

Statute: Tit. 18-A, § 9-202

- Parents must execute consent before a judge
- Consent by an agency may be executed before a notary public and filed with the probate court
- The adoptee, if 14 years or older, must execute consent before a judge

Revocation of Consent

Statute: Tit. 18-A, § 9-202

- A consent or release will not be valid until 3 days after it has been executed; it then becomes final and irrevocable.
- If the adoption consented to is not finalized within 18 months, a review must be held.

Maryland**Who Must Consent to an Adoption**

Statute: Fam. Law § 5-311

- The natural mother and father
- If parental rights have been terminated, the head of the agency that has been awarded guardianship

Age When Consent of Adoptee is Considered or Required

Statute: Fam. Law § 5-311

A child 10 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Fam. Law § 5-312

- Child has been out of parent's custody for 1 year and has significant attachment to petitioner
- Parent has failed to contact or support child
- Parent has been convicted of child abuse or a crime of violence against a child

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: Fam. Law § 5-314

- Consent must contain express notice of right to revoke.
- A minor parent's consent is valid only when accompanied by an affidavit from counsel stating that consent is given knowingly and willingly.

Revocation of Consent

Statute: Fam. Law § 5-311

- Consent may be revoked within 30 days by an individual or agency
 - Individual to be adopted may revoke consent at any time before a decree is entered
-

Massachusetts**Who Must Consent to an Adoption**

Statute: Ch. 210 § 2

- The lawful parents, who may be previous adoptive parents
- A surviving parent
- The mother only if the child has been born out of wedlock
- The child's spouse

Age When Consent of Adoptee is Considered or Required

Statute: Ch. 210 § 2

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Ch. 210 § 3

- The child is over age 18
- The court determines that waiver is in child's best interest
- The child has been abandoned or subjected to abuse or neglect
- The parent has been convicted of murder or manslaughter and the victim was the other parent or a sibling
- The child has been in foster care for 15 of the latest 22 months

When Consent Can Be Executed

Statute: Ch. 210 § 2

Written consent shall be executed no sooner than the 4th day after the birth of the child.

How Consent Must Be Executed

Statute: Ch. 210 § 2

Consent is executed before a notary public in the presence of 2 competent witnesses.

Revocation of Consent

Statute: Ch. 210 § 2

- Consent to adoption, executed according to statutory provision, is final and cannot be revoked
- Sample surrender and consent forms are found in the statute

Michigan

Who Must Consent to an Adoption

Statute: § 710.43

- Each parent or surviving parent
- The authorized representative of the child placing agency to whom the child has been released
- The child's guardian
- The court or tribal court having permanent custody
- If the parent of the adoptee is a minor, the minor's parent must also consent

Age When Consent of Adoptee is Considered or Required

Statute: § 710.43

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 710.37; § 710.43; § 710.51(6)

- Putative father denies paternity or interest in custody
- Parent fails to provide support
- Parental rights have been terminated or relinquished
- Noncustodial parent has failed for 2 years or more to support or communicate with the child

When Consent Can Be Executed

Statute: § 710.29; § 710.44; § 710.34; § 710.31

- Consent may not be executed until after an investigation and a judge has explained their rights to the parents.
- If putative father fails to file a notice of intent to claim paternity prior to the expected date of confinement or birth, he waives any rights to the child and thereby consents.
- At the mother's request, her consent shall be delayed until the court determines the status of the putative father's request for custody.

How Consent Must Be Executed

Statute: § 710.29; § 710.44

- Release is executed before a judge or referee of the juvenile court.
- If the release is given by armed services member, an incarcerated person, or agent of a child placing agency, it is executed before a person authorized to administer oaths.
- Parent must verify that counseling was received and no payment was offered.

Revocation of Consent

Statute: § 710.29

- Person who granted consent may petition court for hearing on whether to grant revocation.
- A release may not be revoked if the child has been placed for adoption unless the child was placed as provided by 710.41(2) and a petition has been filed for a rehearing within time required.

Minnesota

Who Must Consent to an Adoption

Statute: § 259.24 subd. 1, 2

- The child's parents or guardian
- If there is no qualified parent or guardian, consent may be given by a commissioner
- If the unmarried parent is under age 18, the consent of the minor's parent or guardian is required

Age When Consent of Adoptee is Considered or Required

Statute: § 259.24 subd. 3

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 259.24 subd. 1

Parent has:

- Abandoned the child
- Had parental rights terminated
- Lost custody through a court proceeding

When Consent Can Be Executed

Statute: § 259.24 subd. 2a

Consent may be executed no sooner than 72 hours after child's birth and no later than 60 days after child's placement in prospective adoptive home.

How Consent Must Be Executed

Statute: § 259.24 subd. 5

Written consent:

- Must executed before 2 witnesses
- Contain withdrawal provisions
- Contain notice that if child is not adopted the parent may be required to support the child

Revocation of Consent

Statute: § 259.24 subd.6a; § 259.47 subd. 7

- Consent may be withdrawn for any reason within 10 working days
- After 10 days, it becomes irrevocable unless there is fraud

Mississippi**Who Must Consent to an Adoption**

Statute: § 93-17-5

- The parents or parent, if only one is living
- If both parents are dead, then any 2 adult kin provided at least one is in possession of the child
- Guardian *ad litem* of an abandoned child
- Any person having custody of the child
- An agent of the county department

Age When Consent of Adoptee is Considered or Required

Statute: § 93-17-5

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 93-17-5; § 93-17-7

- Parent:
 - Has abandoned or abused the child
 - Has failed to assume parental responsibilities
 - Suffers a medical or emotional illness or chemical dependency
 - Has had parental rights terminated
- Father of child born out of wedlock unless he has shown within 30 days of the child's birth a commitment to parenthood.

When Consent Can Be Executed

Statute: § 93-17-5

Consent is executed no sooner than 72 hours after the child's birth.

How Consent Must Be Executed

Statute: § 93-17-5

Consent is executed before and filed by an authorized officer of any institution engaged in placing children for adoption.

Revocation of Consent

Case law suggests that consent is irrevocable absent fraud, duress or undue influence shown by clear and convincing evidence and considering the best interests of the child.

Missouri**Who Must Consent to an Adoption**

Statute: § 453.030

- The mother.
- Any man who is presumed to be the father, has acted to establish paternity or has filed with the putative father registry.
- The child's current adoptive parents or other legally recognized parent.

Age When Consent of Adoptee is Considered or Required

Statute: § 453.030

A child 14 years or older must consent to the adoption, except where the court finds that the child lacks sufficient mental capacity.

When Parental Consent is Not Needed

Statute: § 453.040

A parent:

- Whose rights have been terminated
- Whose identity is unknown
- Who has been found incompetent
- Who has abandoned or failed to support or care for the child

When Consent Can Be Executed

Statute: § 453.030

May be executed before a judge or notary public any time after child is 48 hours old, before or after petition for adoption is filed.

How Consent Must Be Executed

Statute: § 453.030

Consent must be acknowledged before a notary public, or have consenting person's signature witnessed by 2 adults.

Revocation of Consent

Statute: § 453.030

- Consent may be withdrawn at any time until reviewed and accepted by the judge
- Case law states that consent is irrevocable absent fraud, duress or coercion

Montana**Who Must Consent to an Adoption**

Statute: § 42-2-301

- The birth mother
- The husband of the mother if he is the presumed father
- Any other person whose parental rights have been established
- The agency that has custody of the child
- The legal guardian

Age When Consent of Adoptee is Considered or Required

Statute: § 42-2-301

A child 12 years or older must consent, either in writing or in court, unless he lacks the mental capacity to consent.

When Parental Consent is Not Needed

Statute: § 42-2-302

An individual:

- Whose parental rights have been terminated for unfitness or has waived rights
- Who has been declared incompetent
- Who has not been married to the mother and denies paternity
- Who is the personal representative of a deceased parent's estate

When Consent Can Be Executed

Statute: § 42-2-408

- A parent may consent not less than 72 hours after the child's birth and has first received counseling
- A guardian may consent any time after being authorized by the court

How Consent Must Be Executed

Statute: § 42-2-303; § 42-2-405

- Consents must be acknowledged before an authorized officer of the Department, an agency, or the court
- Consent by a minor parent not valid unless minor has been advised by an attorney

Revocation of Consent

Statute: § 42-2-410

- The parent who has relinquished and the prospective adoptive parent may mutually agree to revocation prior to the issuance of an order terminating parental rights.
- A relinquishment cannot be revoked once that order has been issued.

Nebraska**Who Must Consent to an Adoption**

Statute: § 43-104; § 43-105

- Any court having jurisdiction over the custody of the child.
- Both parents or the surviving parent of a child born in wedlock.
- The mother of a child born out of wedlock and the father provided he has filed with the biological father registry.
- The Department or placing agency.
- The guardian or guardian *ad litem*.

Age When Consent of Adoptee is Considered or Required

Statute: § 43-104

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 43-104; § 43-105

A parent:

- Has relinquished the child
- Has abandoned the child for at least 6 months
- Whose parental rights have been terminated
- Is incapable of giving consent

When Consent Can Be Executed

Not addressed in statutes reviewed but, by implication, any time after the birth of the child.

How Consent Must Be Executed

Statute: § 43-106

Must be executed before an authorized officer or, in private placements, before at least 1 witness.

Revocation of ConsentCase law suggests that relinquishment is irrevocable unless there is a finding that revocation is in the child's best interest or upon finding of fraud, duress, or undue influence.

Nevada**Who Must Consent to an Adoption**

Statute: § 127.040

- Both parents if both are living
- One parent if the other is dead
- The guardian of the child appointed by the court

Age When Consent of Adoptee is Considered or Required

Statute: § 127.020

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 127.090; § 127.040

- The parental rights have been terminated by court order
- A parent has been adjudged insane for 2 years and there is proof that the insanity is incurable

When Consent Can Be Executed

Statute: § 127.070

- Consents executed by the mother before the child's birth or within 72 hours after the birth are invalid
- The father may consent before the birth if he is not married to the mother

How Consent Must Be Executed

Statute: § 127.053; § 127.043; § 127.057

- Consent must be executed before 2 witnesses, identify child and adopting parents, and a copy delivered within 48 hours to the Welfare Department
- A child must not be placed in an adoptive home until a consent is executed by the mother

Revocation of Consent

Statute: § 127.080

Consent cannot be revoked except as provided by 127.070 and only if it is in the child's best interest.

New Hampshire**Who Must Consent to an Adoption**

Statute: § 170-B:5

- The mother.
- The legal and/or natural father provided that if he is under 18 years, the court may require the consent of his parents or guardian.
- The legal guardian.
- The department or agency having custody of the child.
- The court may require the consent of parent or guardian of unwed mother under 18.
- The spouse of the adoptee.

Age When Consent of Adoptee is Considered or Required

Statute: § 170-B:5

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 170-B:6

- An unwed father has failed to establish paternity
- A parent's rights have been terminated

When Consent Can Be Executed

Statute: § 170-B:7

No consent is valid until at least 72 hours after the child's birth.

How Consent Must Be Executed

Statute: § 170-B:8; § 170-B:9

- Relinquishments shall be executed through an agency or the department.
- Consent must be in writing and executed in court or before an authorized person.
- In agency placements, consent can be executed before an authorized representative.
- At the time of relinquishment, the parent shall file with the court an affidavit stating that the parent has been informed of available counseling services.

Revocation of Consent

Statute: § 170-B:8; § 170-B:10

- Can not be withdrawn before entry of interlocutory decree unless obtained by fraud or duress or the court finds that it would be in the child's best interest.
- Consent is irrevocable after final decree.

New Jersey**Who Must Consent to an Adoption**

Statute: § 9:3-41

- The parent or guardian of the child
- Any agency which has obtained the authority to place the child for adoption

Age When Consent of Adoptee is Considered or Required

Statute: § 9:3-49

A child 10 years or older is required to appear at final adoption hearing and the child's wishes be given consideration, provided the child has the capacity to form an intelligent preference.

When Parental Consent is Not Needed

Statute: § 9:3-45; § 9:3-46

- The parent:
 - Has executed a valid surrender
 - Whose parental rights have been terminated
 - Whose child has been made available for adoption
 - Has failed to contact or support the child
 - Has not acknowledged paternity
- Whereabouts of the father are unknown
- A parent who does not file written objections to an adoption within 20 days after notice is given

When Consent Can Be Executed

Statute: § 9:3-41(e)

- Consent may be executed only after 72 hours after child's birth
- An alleged father may execute a disclaimer of parental interest at any time, including before the child's birth

How Consent Must Be Executed

Statute: § 9:3-41(a); § 9:3-45(b)(4)

- Surrender to an approved agency shall be in writing before an authorized person
- A hearing may be held to determine that the surrender was voluntary and proper

Revocation of Consent

Statute: § 9:3-41(a)

- If executed according to provisions, surrender to an agency is valid, binding, and irrevocable and constitutes a termination of parental rights
- At the discretion of the agency, it may be set aside when based on fraud, duress or misrepresentation

New Mexico**Who Must Consent to an Adoption**

Statute: § 32A-5-17

- The mother
- The presumed or acknowledged father
- The department or agency to whom the child has been relinquished
- The guardian of the parent when the guardian has right of consent
- For an Indian child, consent must be obtained from an Indian custodian

Age When Consent of Adoptee is Considered or Required

Statute: § 32A-5-17

A child 10 years or older must consent, unless a court finds the child lacks the mental capacity to give consent.

When Parental Consent is Not Needed

Statute: § 32A-5-18, 19

- A parent's rights have been terminated or have been relinquished to an adoption agency
- A biological father of a child conceived by rape or incest
- Any person who fails to respond to notice
- Any putative father who fails to register
- The parent has left the child without identification or has failed to contact or support the child

When Consent Can Be Executed

Statute: § 32A-5-21(G)

No consent is valid for at least 48 hours after the child's birth.

How Consent Must Be Executed

Statute: § 32A-5-23

- Consent shall be executed before a judge or an individual appointed to take consents or by an agency licensed by the State.
- If not executed before a judge, the consenting parent must be represented by independent counsel and a guardian *ad litem* must be appointed for any adoptee whose consent is required.

Revocation of Consent

Statute: § 32A-5-21(l)

- Consents may not be withdrawn prior to the entry of the final judgment unless the consent was obtained by fraud.
- After the final decree, consent is irrevocable.

New York**Who Must Consent to an Adoption**

Statute: Dom. Rel. Law § 111; § 113

- Both parents if child is born or conceived in wedlock.
- For a child born out of wedlock, the mother and father if he has shown an interest in the child.
- Any person or agency having custody.
- Agency's consent is required if the agency has custody and guardianship of the child, or if both parents are deceased or one parent is deceased and the other parent is not entitled to notice.

Age When Consent of Adoptee is Considered or Required

Statute: Dom. Rel. Law § 111

A child 14 years or older must consent to the adoption unless the court dispenses with consent.

When Parental Consent is Not Needed

Statute: Dom. Rel. Law § 111

The parent:

- Has failed to visit or contact the child for 6 months
- Has surrendered the child to an agency for adoption
- Shows intent to forego rights
- Whose child has a court appointed guardian
- Is unable to care for the child due to mental illness

When Consent Can Be Executed

Not addressed in statutes reviewed.

Case law implies that consent may be executed any time after the child's birth.

How Consent Must Be Executed

Statute: Dom. Rel. § 115-b; Soc. Serv. Law. § 384

- For private adoptions, the statute distinguishes between consents executed in court and extra-judicial consents, and details contents required for consents to be valid.
- For agency adoptions, statute details requirements for a valid written surrender.

Revocation of Consent

Statute: Dom. Rel. § 115-b

- In a private adoption, consent given in court is irrevocable.
- An extra-judicial consent may be revoked within 45 days.
- Parental consents to private adoptions and surrenders in agency adoptions may be challenged if obtained by fraud, duress or coercion.

North Carolina

Who Must Consent to an Adoption

Statute: § 48-3-601; § 48-3-602

- The mother
- A man who was married to the mother or has legitimated the child
- A guardian
- The agency that placed the child for adoption
- The guardian *ad litem* of an incompetent parent

Age When Consent of Adoptee is Considered or Required

Statute: § 48-3-601; § 48-3-603

A child 12 years or older must consent to the adoption unless the court finds that it is not in the child's best interest to require consent.

When Parental Consent is Not Needed

Statute: § 48-3-603

- The parent fails to respond to notice
- A putative father cannot establish parental rights
- Rights have been terminated or relinquished
- A man who denies paternity or is judicially determined to not be the father
- A deceased parent or representative of the parent's estate

When Consent Can Be Executed

Statute: § 48-3-604

- A man may consent any time before or after child's birth.
- A mother may only consent after the child's birth.
- A guardian may consent at any time.
- An agency with custody shall execute its consent no later than 30 days after being served notice of a proceeding for adoption.

How Consent Must Be Executed

Statute: § 48-3-605; § 48-3-606

- Must be signed and executed under oath before an authorized individual, stating that consent was voluntary and stating the legal consequences of the consent.
- Parent must also have been advised of right to legal counsel and is aware of counseling services through the department.

Revocation of Consent

Statute: § 48-3-607; § 48-3-608; § 48-3-609

- Consent is generally final and irrevocable.
- Consent to an infant *in utero* or any other minor may be revoked within 7 days following execution.
- In a direct placement, consent may be revoked in 5 business days. May be revoked if there is fraud, duress or mutual agreement.
- If a parent revokes a consent, and later consents again, the 2nd consent is irrevocable.

North Dakota**Who Must Consent to an Adoption**

Statute: § 14-15-05

- The mother, whether by birth or adoption
- The father, whether by adoption or otherwise legitimated
- The presumed biological father
- Any individual lawfully entitled to custody
- The court having jurisdiction to determine custody
- Spouse of the minor

Age When Consent of Adoptee is Considered or Required

Statute: § 14-15-05

A child 10 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 14-15-06

- The child has been abandoned
- The parent fails to communicate with or support the child for 1 year
- Parental rights have been terminated or relinquished
- Adulthood of adoptee
- Parental incompetence
- When a legal guardian:
 - Fails to respond to a request for consent
 - Is found to be withholding consent unreasonably

When Consent Can Be Executed

Statute: § 14-15-07

Consent may be executed anytime after the child's birth.

How Consent Must Be Executed

Statute: § 14-15-07

- If by an agency, consent must be executed by executive head of agency or other representative before an individual authorized to take acknowledgments.
- If by an individual, consent must be executed before a court or an individual authorized to take acknowledgements..

Revocation of Consent

Statute: § 14-15-08

Consent can be withdrawn before the final order, but only if the court finds that it is in the child's best interest.

Northern Mariana Islands**Who Must Consent to an Adoption**

Statute: Tit. 8 § 1404

- The mother
- The legal father of a legitimate child
- An adjudicated father
- A presumed father
- A concerned natural father who has shown a reasonable degree of interest
- Any person or agency having custody
- The court having jurisdiction

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 8 § 1404(8)

A child over the age of 10 must consent unless the court, in the child's best interest, dispenses with consent.

When Parental Consent is Not Needed

Statute: Tit. 8 § 1405(a)

- The parent has:
 - Abandoned the child
 - Failed to communicate with or support the child
 - Relinquished his rights or had them terminated
 - Been declared incompetent or mentally defective
- Any legal guardian who:
 - Fails to respond to a request for consent
 - Is found to be withholding consent unreasonably

When Consent Can Be Executed

Statute: Tit. 8 § 1406(a)

Any time after the birth of the child.

How Consent Must Be Executed

Statute: Tit. 8 § 1406(a)

- The adoptee must consent in the presence of the court
- An agency head must consent in the presence of an authorized person
- Any other person can consent either before the court or an authorized person
- Consent by the court is by appropriate order or certificate

Revocation of Consent

Statute: Tit. 8 § 1407

- Cannot be withdrawn after entry of a decree of adoption
- Prior to entry of decree, by petition to the court and a finding that withdrawal is in the child's best interest

Ohio**Who Must Consent to an Adoption**

Statute: § 3107.06

- The mother.
- The father if he was married to the mother at the time of conception, is the adoptive father, or has established paternity.
- The putative father.
- Any agency or person having permanent custody.
- The court having jurisdiction to determine custody.

Age When Consent of Adoptee is Considered or Required

Statute: § 3107.06

A child 12 years or older must consent, unless it is in the child's best interest to waive the requirement.

When Parental Consent is Not Needed

Statute: § 3107.07

- The parent fails to contact or provide for the child for 1 year
- The putative father is not the actual father or has abandoned the child before or after birth
- The parent relinquishes or has parental rights terminated
- Legal guardian or guardian *ad litem* of a parent declared incompetent
- A guardian or custodian withholds consent unreasonably
- A parent or guardian is in a foreign country and child is released for adoption pursuant to laws in that country
- Spouse of minor, if consent unreasonably withheld

When Consent Can Be Executed

Statute: § 3107.08(A)

Consent cannot be executed until at least 72 hours after the child's birth.

How Consent Must Be Executed

Statute: § 3107.08

- By the adoptee in the presence of the court
- By an agency, before an authorized person
- By another person or parent except the minor, before the court or an authorized person
- By court order

Revocation of Consent

Statute: § 3107.084

A consent is irrevocable except if consent is withdrawn prior to the:

- Interlocutory order.
- Entry of the final decree when no other order has been entered after a hearing that finds withdrawal is in the best interest of the adoptee.

Oklahoma**Who Must Consent to an Adoption**

Statute: § 10-7503-2.1

- Both parents
- One parent if the other is dead, has had rights terminated, or whose consent is not required
- A legal guardian
- Head of a child placing agency to the whom the child has been relinquished
- Any person having legal custody
- The parents or guardian of a minor parent under age 16 must consent

Age When Consent of Adoptee is Considered or Required

Statute: § 10-7503-2.1

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 10-7505-4.2

- Parental rights have been terminated
- For 12 months, the parent has failed to support the child
- A parent has been convicted of physical or sexual abuse, or is incarcerated
- A putative father fails to acknowledge paternity
- A parent has a mental illness or deficiency

When Consent Can Be Executed

Statute: § 10-7503-2.2; § 10-7503-2.3

- Parent may not execute consent until after child's birth.
- A putative father may consent before or after child's birth.
- A permanent relinquishment may be executed any time after child's birth, after court authorization, but must be in writing and include a statement of irrevocability.

How Consent Must Be Executed

Statute: § 10-7503-2.3; § 10-7503-2.6

- Parents may relinquish to the department, an agency, or another person
- It must be in writing and executed before a judge
- Consent must state that it executed voluntarily and unequivocally
- A putative father may make an extra-judicial consent

Revocation of Consent

Statute: § 10-7503-2.7; § 10-7503-2.6

- Consent is irrevocable, except if it was obtained by fraud or duress, or if court finds that it is in child's best interest and there has been no adoptive placement for 9 months.
 - An extra-judicial consent is revocable for any reason for 15 days.
-

Oregon**Who Must Consent to an Adoption**

Statute: § 109.312; § 109.316

- The parents, or surviving parent
- A guardian
- Next of kin
- A suitable person appointed by the court as next friend of the child
- State office or agency to which custody has been surrendered

Age When Consent of Adoptee is Considered or Required

Statute: § 109.328

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 109.314; § 109.322; § 109.324; § 109.326

- A parent:
 - Does not retain custody
 - Is mentally ill or deficient
 - Has been imprisoned more than 3 years
 - Has deserted or neglected the child
- The mother's husband is found not to be the child's father

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: § 109.312; § 418.270

- Must be in writing and its validity attested to by the court or an authorized person.
- A parent may execute consent or surrender to a child placing agency for the purpose of placing the child for adoption by that agency.

Revocation of Consent

Statute: § 109.312

Consent may not be revoked unless fraud or duress is proved with respect to any material fact surrounding the adoption procedure.

Pennsylvania**Who Must Consent to an Adoption**

Statute: 23 Pa. § 2711

- The parents or surviving parent
- The guardian or custodian or an incapacitated adoptee
- The husband or former husband of the natural mother unless there is proof that he is not the natural father

Age When Consent of Adoptee is Considered or Required

Statute: 23 Pa. § 2711

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: 23 Pa. § 2713; § 2714; § 2511

- The adoptee is 18 years or older
- The parent of a newborn fails to maintain contact for 4 months
- The father of a child conceived through incest or rape
- Parental rights have been terminated
- Parent has failed to perform parental duties
- There is repeated and continued abuse or neglect
- The parent is the presumptive but not natural father of the child
- The child is in the custody of an agency because the whereabouts of the parents are unknown
- The child has been removed from the parent for 6 months

When Consent Can Be Executed

Statute: 23 Pa. § 2711(c)

- Consent may not be executed until at least 72 hours after the child's birth.
- A putative father may execute a consent at any time after receiving notice of the expected or actual birth of the child.

How Consent Must Be Executed

Statute: 23 Pa. § 2501-2505; § 2711(2)

- These sections deal with voluntary relinquishment to an agency or directly to prospective adopters; provide for court hearings to approve relinquishments or court approval of consents executed out of court.
- There are also procedures for when parents do not petition for relinquishment within 40 days of executing consent, and making counseling available. The contents of out of court consents are detailed.
- Consent shall include the date and place of its execution and names, addresses, and signatures of at least two witnesses and their relationship to the consenter.

Revocation of Consent

Statute: 23 Pa. § 2711(c)

A parent can revoke consent until the court has entered either a termination order that confirms consent or an adoption decree.

Puerto Rico**Who Must Consent to an Adoption**

Statute: Tit. 31 § 535

- The parents if they possess *patria potestas*, as well as the father/mother who due to a divorce does not possess the *patria potestas* of a minor.
- Secretary of the Department.
- Special or legal guardian.
- The grandparents if the parents are minors.

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 31 § 535

A child over 10 years of age must consent to the adoption.

When Parental Consent is Not Needed

Statute: Tit. 31 § 634a

The parent:

- Causes or permits substantial harm to the child
- Fails to fulfill parental duties
- Abandons or fails to support the child
- Fails to fulfill a service plan
- Commits any of the felonies listed in the statute

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: Tit. 32 § 2699b

Written consent of parents shall be attached to the adoption petition.

Revocation of Consent

Statute: Tit. 32 § 2699q

Decree is voidable when parties entitled to notice have not been notified, when there are flaws or defects in the parental consents, or when there has been fraud.

Rhode Island**Who Must Consent to an Adoption**

Statute: § 15-7-5; § 15-7-10

- The parents or surviving parent
- The guardian or next of kin
- A suitable person appointed by the court as next friend of the child
- A minor parent must have the consent of one of the child's grandparents, a guardian or guardian *ad litem*

Age When Consent of Adoptee is Considered or Required

Statute: § 15-7-5

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 15-7-7

- Parental rights have been terminated
- The parent has neglected or abused the child or subjected the child to aggravated circumstances
- The parent is deemed unfit due to emotional or mental illness; excessive drug or alcohol abuse
- Parent has voluntarily or involuntarily placed the child in the care of a licensed agency

When Consent Can Be Executed

Statute: § 15-7-6

Termination of rights or consent to adoption may not be executed sooner than 15 days after the child's birth.

How Consent Must Be Executed

Statute: § 15-7-5

Consent must be in writing.

Revocation of Consent

Statute: § 15-7-21.1

A decree of adoption or consent cannot be challenged except by a petition filed within 180 days and a finding by the court that the decree is not in the child's best interest.

South Carolina**Who Must Consent to an Adoption**

Statute: § 20-7-1690

- Parents or surviving parent
- The father when the parents are not married if the father has maintained substantial contact with the child
- The legal guardian
- The child placing agency or legal custodian

Age When Consent of Adoptee is Considered or Required

Statute: § 20-7-1690

A child 14 years or older must consent to the adoption, except where the court finds that the child lacks the mental capacity to consent or that it is not in the child's best interest.

When Parental Consent is Not Needed

Statute: § 20-7-1695

- Parental rights have been terminated pursuant to statute
- A parent has executed a relinquishment
- Parent has been judged mentally incapable

When Consent Can Be Executed

Statute: § 20-7-1700

Consent may be given at any time after the child's birth.

How Consent Must Be Executed

Statute: § 20-7-1700; § 20-7-1705

- Consent must be by a sworn statement, signed in the presence of 2 witnesses, one of whom must be a judge, a disinterested attorney, or authorized person.
- The witness must attest that consent was voluntary and executed without duress or coercion, and contain detailed information and a statement of legal consequences of signing.

Revocation of Consent

Statute: § 20-7-1720

- Not permitted except where it is in the child's best interest and if it was given involuntarily or under duress or coercion.
- The final decree renders the consent irrevocable.

South Dakota**Who Must Consent to an Adoption**

Statute: § 25-6-4

No child may be adopted without the consent of the child's parents.

Age When Consent of Adoptee is Considered or Required

Statute: § 25-6-5

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 25-6-4

The parent:

- Is incarcerated for a critical period of time
- Has abandoned the child
- Is unfit by reason of habitual use of alcohol or drugs
- Has been deprived of custody
- Has neglected or failed to provide for the child

When Consent Can Be Executed

Statute: § 25-5A-4

No petition to terminate rights or consent to adoption may be filed until 5 days after the child's birth.

How Consent Must Be Executed

Statute: § 25-6-12; § 25-5A-16

Consent must be in writing; followed by a court appearance to answer questions indicating their voluntary action and understanding of the consequences.

Revocation of Consent

Statute: § 25-6-21

- Except in any case involving fraud, any adoption proceeding shall be in all things legalized 2 years after finalization.
- Any claims must be initiated within those 2 years.

Tennessee**Who Must Consent to an Adoption**

Statute: § 36-1-110; § 36-1-111

- A parent under age 18 shall have the capacity to give consent to adoption
- A guardian *ad litem* may be appointed
- The child's parent or guardian

Age When Consent of Adoptee is Considered or Required

Not addressed in statutes reviewed.

When Parental Consent is Not Needed

Statute: § 36-1-113

- There is no person qualified to give consent
- The parent:
 - Has abandoned the child
 - Has shown substantial noncompliance with a permanency plan
 - Whose child has been out of the home for 6 months
 - Has committed severe child abuse
 - Has been imprisoned for 2 years for conduct against a child
 - Has failed to support, contact or visit the child

When Consent Can Be Executed

Statute: § 36-1-111

- No surrender shall be made prior to the 3rd day after birth
- The count starts on the first full day following birth
- The court may, for good cause shown, waive the 3 day waiting period

How Consent Must Be Executed

Statute: § 36-1-111(b)

- Surrenders shall be made in the presence of a judge, and the court shall advise the person of the right, time and procedure.
- The court may accept notarized statements if someone is unable to surrender in person.

Revocation of Consent

Statute: § 36-1-112; § 36-1-118

- A person may revoke a surrender within 10 days if such revocation occurs in the presence of a judge.
- After 10 days, a surrender cannot be set aside unless the court finds reasons the adoption should not go forward, as detailed in 36-1-118.
- A surrender may be revoked at anytime prior to the entry of an order of confirmation of parental consent by the court.
- The surrender may be revoked if there is clear and convincing evidence of fraud, misrepresentation, or duress.

Texas**Who Must Consent to an Adoption**

Statute: Fam. Code § 162.010

- The managing conservator
- If a parent of the child is presently the spouse of the petitioner, he must join in the petition for adoption

Age When Consent of Adoptee is Considered or Required

Statute: Fam. Code § 162.010

A child 12 years or older must consent, unless court finds it in the child's best interest to waive consent.

When Parental Consent is Not Needed

Statute: Fam. Code § 161.003; § 161.005; § 161.006; § 161.007

- Parent unable to care for child due to mental illness.
- Has voluntarily terminated parental rights.
- After an abortion where the child survives.
- A person is convicted of a crime resulting in the birth of a child.
- Rights have been terminated on the grounds of abandonment, nonsupport, endangerment, abuse and neglect.

When Consent Can Be Executed

Statute: Fam. Code § 161.103; § 161.106

- The birth mother may consent no sooner than 48 hours after the birth
- A man may sign an affidavit disclaiming any interest at any time before or after the birth

How Consent Must Be Executed

Statute: Fam. Code § 161.103

A consent must be signed by the parent, whether or not a minor, witnessed by 2 credible witnesses, and verified by a person authorized to take oaths.

Revocation of Consent

Statute: Fam Code § 161.1035; § 162.011

- An affidavit of relinquishment that fails to state that it is irrevocable can be revoked before the 11th day after signing.
 - On the 11th day, consent becomes irrevocable.
 - Any time before an order granting an adoption, consent may be revoked by filing a signed revocation.
-

Utah**Who Must Consent to an Adoption**

Statute: § 78-30-4.14; § 78-30-4.21

- Both parents or surviving parent of child born in wedlock
- The mother
- Any biological father who has established paternity
- The child placing agency to which the child has been relinquished
- A minor parent has the power to consent

Age When Consent of Adoptee is Considered or Required

Statute: § 78-30-4.14; § 78-30-6

A child 12 years or older must consent to the adoption, unless he does not have the capacity to consent.

When Parental Consent is Not Needed

Statute: § 78-30-4.17; § 78-30-4.23

- The parent's rights have been terminated by a court
- The child was conceived as a result of any sexual offense

When Consent Can Be Executed

Statute: § 78-30-4.19

Birth mother may not execute consent until at least 24 hours after child's birth.

How Consent Must Be Executed

Statute: § 78-30-4.18

Consent must be signed before a judge or authorized official of a child-placing agency so long as signature is notarized or witnessed by 2 individuals who are not members of the birth mother's immediate family.

Revocation of Consent

Statute: § 78-30-4.20

- Consent is effective when signed and cannot be revoked.
- Case law suggests that consent may be revoked if induced by duress, undue influence, deception or other grounds that would justify release from a contract.

Vermont**Who Must Consent to an Adoption**

Statute: Tit. 15A § 2-401

- The birth mother
- The biological father
- The man married to the mother at the time of conception or who has acknowledged paternity
- The child's guardian, adoptive or other legally recognized parents
- The agency that placed the child for adoption

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 15A § 2-401

A child 14 years or older must consent, unless the court dispenses with the need.

When Parental Consent is Not Needed

Statute: Tit. 15A § 2-402

- A person has relinquished parental rights to an agency, or whose rights have been terminated or determined not to exist.
- Representative of a deceased parent.
- The man denies paternity or fails to appear at proceedings.
- Consent of a guardian or agency not required if court finds it is being withheld contrary to child's best interest.

When Consent Can Be Executed

Statute: Tit. 15A § 2-404

- Consent by a parent may not be executed earlier than 36 hours after child's birth
- Consent by a guardian can be made any time after being authorized by the court
- Consent by an agency may be made any time before or during the hearing on adoption

How Consent Must Be Executed

Statute: Tit. 15A § 2-405

- A consent executed by a parent or guardian shall be signed in the presence of the probate judge or the court's authorized agent.
- A minor must consent in the presence of a judge.

Revocation of Consent

Statute: Tit. 15A § 2-407; § 2-409

- Consent is irrevocable after 21 days.
- Consent is revoked if the parent notifies the court within 21 days; or the parent and prospective adoptive parent agree.
- Consent may also be set aside if obtained by fraud or duress, or if a condition permitting revocation has occurred.

Virgin Islands**Who Must Consent to an Adoption**

Statute: Tit. 16 § 142(a)

- The parents or surviving parent
- The guardian or next of kin in the Virgin Islands
- A guardian *ad litem* appointed by the court

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 16 § 144

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: Tit. 16 § 142(b)

The parent:

- Is insane or imprisoned for more than 2 years
- Has deserted and neglected to provide for the child
- Is found to be an unfit parent

When Consent Can Be Executed

Not addressed in statutes reviewed.

How Consent Must Be Executed

Statute: Tit. 16 § 142(a)

Consent must be in writing.

Revocation of ConsentNot addressed in statutes reviewed.

Virginia**Who Must Consent to an Adoption**

Statute: § 63.2-1202

- The mother.
- The husband of the mother.
- The birth father if the parents are unwed, unless the birth father cannot be determined or fails to respond to notice.
- The agency or department having custody.
- A minor parent shall have power to consent.

Age When Consent of Adoptee is Considered or Required

Statute: § 63.2-1202

A child 14 years or older must consent to the adoption unless the court finds the child's best interest would not be served.

When Parental Consent is Not Needed

Statute: § 63.2-1202

- When the father has been convicted of rape the result of which the child is conceived
- If parental rights have been terminated
- If the putative father cannot be identified, or if known, fails to respond to notice
- Parents fail to appear at adoption hearing
- When consent is withheld contrary to the best interests of the child

When Consent Can Be Executed

Statute: § 63.2-1233

Consent is not valid until the child is 10 days old.

How Consent Must Be Executed

Statute: § 63.2-1202; § 63.2-1232; § 63.2-1233

- Consent in direct placement must be executed in court in presence of adoptive parents.
- The court shall first determine that parent has been counseled on alternatives to adoption and all procedures required by law have been completed.
- Entrustments and consents in agency placements may be executed before an authorized officer.
- Placement by birth parents with a relative of a degree specified per statute may be executed before an authorized officer.

Revocation of Consent

Statute: § 63.2-1204; § 63.2-1223; § 63.2-1234

- An entrustment agreement can be revoked by either birth parent until the child is 25 days old and 15 days have elapsed since execution of the agreement.
 - Consent can be revoked by either parent for any reason for 15 days.
 - After that period, but before the final adoption order, consent may be revoked only upon proof of fraud or duress or mutual written consent of birth and adoptive parents.
-

Washington**Who Must Consent to an Adoption**

Statute: § 26.33.080; § 26.33.160

- The parents and any alleged father
- The agency or department to which the child has been relinquished
- The legal guardian

Age When Consent of Adoptee is Considered or Required

Statute: § 26.33.160

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 26.33.120

- A parent's rights have been terminated in the child's best interest and due to failure to perform parental duties.
- For an Indian child, a parent's rights may be terminated only pursuant to standards set forth in 25 U.S.C. 1912(f).

When Consent Can Be Executed

Statute: § 26.33.080; § 26.33.090; § 26.33.160

- Parents' written consent and petition to relinquish may be filed before birth, but the hearing may not be held sooner than 48 hours after the birth.
- If the child is an Indian child, the petition and consent shall not be signed until at least 10 days after birth.

How Consent Must Be Executed

Statute: § 26.33.090; § 26.33.160

- Written consents may be executed out of court and mailed or delivered to the clerk of the court but are not valid until 48 hours after signing or the birth of the child and approved by a judge.
- If the child is an Indian child, no consent shall be valid unless signed at least 10 days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. 1913(a).

Revocation of Consent

Statute: § 26.33.160

- Consent is revocable until court approves it.
- Thereafter, consent is irrevocable, except that for 1 year, consent may be revoked for fraud, duress, or lack of mental competency.
- For an Indian child, consent can be withdrawn for any reason before entry of final decree and for fraud or duress within 2 years.

West Virginia**Who Must Consent to an Adoption**

Statute: § 48-22-301; § 49-3-1

- The parents of a marital child
- The mother and determined father of a nonmarital child
- The legal guardian or other person having legal custody
- A suitable person appointed by the court as next friend to the child
- An agency having permanent legal custody of the child

Age When Consent of Adoptee is Considered or Required

Statute: § 48-22-301

A child 12 years or older must consent in the presence of a judge, but consent may be waived for 'extraordinary cause' by the court.

When Parental Consent is Not Needed

Statute: § 48-22-301

- Parental rights have been terminated
- A child was abandoned or permanently relinquished
- The parent is under disability or incurably insane

When Consent Can Be Executed

Statute: § 48-22-302

Consent may not be executed until at least 72 hours after the child's birth.

How Consent Must Be Executed

Statute: § 48-22-302; § 48-22-304

- Consent must be signed and executed in the presence of a judge, a notary, or person designated by the court to take consent.
- If the parent is a minor, consent shall be reviewed and approved by the court.

Revocation of Consent

Statute: § 48-22-303; § 48-22-305

- Consent may provide for conditional revocation if other required consents are not executed, or in direct placements, a petition for adoption is denied or withdrawn.
- If, prior to entry of adoption order, the birth parent and adopting parent mutually agree; or that consent was obtained by fraud or duress.
- The court will award custody based on child's best interest.

Wisconsin**Who Must Consent to an Adoption**

Statute: § 48.41; § 48.42

- A parent may consent to a voluntary termination of parental rights
- A petition may also be filed by an agency or other authorized person

Age When Consent of Adoptee is Considered or Required

- Not addressed in statutes reviewed, but see § 48.837
- Any child age 12 or older is required to attend the hearing pertaining to his adoptive placement.

When Parental Consent is Not Needed

Statute: § 48.415

- Parental rights have been terminated due to failure of parents to assume responsibility
- There has been abandonment of the child
- There is continuing parental disability
- There has been child abuse
- Causing child to be conceived as a result of incest or sexual assault
- Homicide of a parent

When Consent Can Be Executed

Statute: § 48.837

A hearing is held within 30 days of the filing of a petition for voluntary termination of parental rights, but not before the birth of the child.

How Consent Must Be Executed

Statute: § 48.41

- Consent is given in court after the judge explains the effect of termination of rights and is satisfied that consent is informed and voluntary.
- Personal appearance may be waived and written consents accepted if it is impossible or difficult for parent to appear.

Revocation of Consent

Statute: § 48.46

- Generally consents are irrevocable, but a parent who has consented to termination may within one year petition for relief on grounds given in 806.07(1), i.e., mistake, newly-discovered evidence, fraud, misrepresentation, or misconduct; see statute for detailed exceptions to the one year provision.
- An adoptive parent who wishes to terminate parental rights with respect to his or her adopted child must petition to terminate parental rights under 48.42 or appeal the order granting adoption.

Wyoming**Who Must Consent to an Adoption**

Statute: § 1-22-109

- Both parents, if living
- Mother and putative father, if known
- Legal guardian
- The head of the agency to which the child has been relinquished
- Legal custodian
- The guardian of any parent adjudged mentally incompetent

Age When Consent of Adoptee is Considered or Required

Statute: § 1-22-109

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed

Statute: § 1-22-110

- When parent fails to respond to notice
- Parental rights have been terminated
- Parent has abandoned the child or been adjudged guilty of child abuse or neglect
- Child was conceived as a result of rape or incest for which the father was convicted
- Parent fails to meet support obligation
- A putative father fails to acknowledge paternity

When Consent Can Be Executed

Statute: § 1-22-109

- Consent shall be executed any time after the child's birth.
- Written relinquishment of custody and written consent are required; both may be included in the same document.

How Consent Must Be Executed

Statute: § 1-22-109

- Consent may be acknowledged by an authorized person or representative of the department or the agency to whom custody is being relinquished.
- It may also be approved by the court.

Revocation of Consent

Statute: § 1-22-109(d)

- Consent irrevocable unless obtained by fraud or duress.
- If the court should deny the adoption due to claim of putative father, the court may allow mother to withdraw consent.